

fails to resolve EPA's objections within 180 days. EPA shall also revoke the exemption by rulemaking for the owner or operator of any source in the event that EPA reopens a permit for cause and CNMI does not issue a permit that resolves the concerns as set forth in EPA's notice to reopen within 180 days.

(6) EPA reserves its authority to revoke or modify this exemption in whole or in part.

(f) *Scope of the exemption.* This exemption applies solely to the requirement that an owner or operator obtain an operating permit under title V of the Clean Air Act and the requirement that CNMI implement a title V permit program. In addition, this exemption does not apply to owners or operators of sources set forth in paragraph (a)(4) of this section. Owners and operators of air pollutant sources are required to comply with all other applicable requirements of the Clean Air Act. For purposes of complying with any applicable requirement that is triggered or implemented by the approval of a title V permit program, the approval date for owners or operators to which this exemption applies shall be the date that EPA approves the alternate program for each territory or, for owners or operators of sources that are subject to 40 CFR part 71, the approval date shall be the effective date of 40 CFR part 71, which is July 31, 1996.

[61 FR 58292, Nov. 13, 1996; 61 FR 66077, Dec. 16, 1996]

## Subpart D—The U.S. Virgin Islands

### § 69.41 New exemptions.

(a) Pursuant to section 325(a) of the Clean Air Act and a petition submitted by the Governor of the Virgin Islands, an exemption to section 123 of the Clean Air Act is granted to the Hess Oil Virgin Islands Corporation (HOVIC) at the St. Croix refinery. Specifically, the exemption waives the prohibition on the implementation of an Intermittent Control Strategy (ICS) based upon atmospheric conditions in order to set emission limitations. The emission limitations shall depend upon the sulfur content in the residual oil burned at the refinery.

(b) The protocol to be followed for the ICS shall be set forth in a Preven-

tion of Significant Deterioration of Air Quality (PSD) permit issued to HOVIC; and shall include as a minimum, the conditions listed in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this section.

(1) HOVIC shall maintain a meteorological tower on its property for the purpose of the ICS which meets the required EPA QA/QC operating specifications. At a minimum, the wind direction data will be monitored, collected and reported as 1-hour averages, starting on the hour. If the average wind direction for a given hour is from within the designated sector, the wind will be deemed to have flowed from within the sector for that hour. Each "day" or "block period", for these purposes will start at midnight and end the following midnight.

(2) HOVIC shall maintain SO<sub>2</sub> ambient monitors and collect ambient SO<sub>2</sub> concentration data for the purpose of implementing the ICS at nearby locations approved by EPA and specified in the PSD permit. The ambient monitors must follow the required EPA QA/QC operating specifications. At a minimum, the data will be collected according to EPA approved State and Local Ambient Monitoring Stations procedures found at 40 CFR 58.20, but will, for these purposes, be averaged by the hour, starting on the hour.

(3) The switch to a lower sulfur fuel (0.5%) will take place when paragraphs (b)(3)(i) or (b)(3)(ii) of this section are met.

(i) The winds blow from a 45 degree sector defined as 143 to 187 degrees inclusive, where zero degrees is due north, for at least 6 consecutive hours during a 24-hour block period or any 12 non-consecutive hours during a 24 hour block period.

(ii) One of HOVIC's ICS monitors measures an average ambient SO<sub>2</sub> concentration that is 75% of the 24-hour NAAQS during any rolling 24-hour average. (75% of the 24-hour NAAQS = 274 ug/m<sup>3</sup> or 0.105 ppm).

(4) The switch back to the higher sulfur fuel (1.0%) may occur if the conditions in paragraphs (b)(4)(i), (b)(4)(ii), and (b)(4)(iii) of this section are met.

(i) If the ICS was triggered by paragraph (b)(3)(i) of this section, the switch back may occur when the winds

blow outside the sector listed in paragraph (b)(3)(i) of this section for at least 3 consecutive hours following the period during which the winds were blowing inside the sector.

(ii) If the ICS was triggered by paragraph (b)(3)(ii) of this section, the switch back may occur after all of HOVIC's ICS ambient monitors measure a 24-hour average concentration which is less than 75% of the NAAQS for at least one 24-hour block period following any occurrence when the monitor measured the concentration which was 75% of the NAAQS.

(iii) If the ICS was triggered by both paragraphs (b)(3)(i) and (b)(3)(ii) of this section, the switch back may occur when both of the conditions in paragraphs (b)(4)(i) and (b)(4)(ii) of this section are met.

(c) The protocol may be modified by EPA to protect against exceedances of the sulfur dioxide NAAQS.

(d) In the event that there is an exceedance of the NAAQS, HOVIC will report the exceedance to EPA and recommend corrective action as well as amendments to the protocol to ensure the protection of the NAAQS.

(e) HOVIC must comply with all fuel switching requirements, contained in HOVIC's PSD permit.

(f) This exemption shall take effect only in the event that a final PSD permit modification becomes effective.

(g) The Administrator may terminate the exemption through rulemaking procedures upon determining that HOVIC's use of the ICS is causing or contributing to an exceedance of the NAAQS.

[62 FR 61205, Nov. 14, 1997]

## PART 70—STATE OPERATING PERMIT PROGRAMS

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APPENDIX A TO PART 70—APPROVAL STATUS OF STATE AND LOCAL OPERATING PERMITS PROGRAMS

AUTHORITY: 42 U.S.C. 7401, *et seq.*

SOURCE: 57 FR 32295, July 21, 1992, unless otherwise noted.

### § 70.1 Program overview.

(a) The regulations in this part provide for the establishment of comprehensive State air quality permitting systems consistent with the requirements of title V of the Clean Air Act (Act) (42 U.S.C. 7401, *et seq.*). These regulations define the minimum elements required by the Act for State operating permit programs and the corresponding standards and procedures by which the Administrator will approve, oversee, and withdraw approval of State operating permit programs.

(b) All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements. While title V does not impose substantive new requirements, it does require that fees be imposed on sources and that certain procedural measures be adopted especially with respect to compliance.

(c) Nothing in this part shall prevent a State, or interstate permitting authority, from establishing additional or more stringent requirements not inconsistent with this Act. The EPA will approve State program submittals to the extent that they are not inconsistent with the Act and these regulations. No permit, however, can be less stringent than necessary to meet all applicable requirements. In the case of Federal intervention in the permit process, the Administrator reserves the right to implement the State operating permit program, in whole or in part, or the Federal program contained in regulations promulgated under title V of the Act.

(d) The requirements of part 70, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the acid rain program, except as provided herein or modified